

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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 USDC SDNY
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U.S. SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff, :

-against-

KIK INTERACTIVE INC.,

Defendant. :

ORDER REGULATING
DISCOVERY

19 Civ. 5244 (AKH)

ALVIN K. HELLERSTEIN, U.S.D.J.:

The parties, by joint letter of November 22, 2019 (ECF No. 38) and pursuant to my Individual Rule of Practice 2.E, ask me for rulings on discovery disputes. My rulings follow, numbered as in the parties' joint letter.

1. The SEC's Request No. 5, asking for documents concerning oral or written agreements with employees, officers, directors or agents whom defendant identifies in its Initial Disclosures, is granted, as originally formulated and as restated on page 5 of the joint letter. Defendant shall make production within two weeks from today. Obviously, agreements with witnesses, particularly regarding their compensation at seemingly high rates for time taken in testifying and preparing to testify, are relevant as to credibility. Defendant's excuse as to its failure to produce timely, in the belief that the SEC's Request did not embrace emails, is frivolous. Defendant's long argument that it had the right to delay the SEC's complaints to the court by "meet and confer" procedures equally is frivolous.

2. The SEC's Requests Nos. 4 and 7 are overly broad; defendant's objection to production is granted. Emails concerning allegations of the complaint, or concerning the Investigation are susceptible to varying interpretations. The SEC may reformulate its Requests to refer to specific subject matter.
3. Defendant's discovery complaints should be made the subject of a separate joint letter pursuant to my Individual Rule of Practice 2.E.
4. The status conference, scheduled to be held December 6, 2019 at 10:00 am, will be held instead, by telephone, on December 5, 2019 at 2:30 pm. A court reporter will transcribe the conference. The SEC will initiate the call.

SO ORDERED.

Dated: New York, New York
November 26, 2019


ALVIN K. HELLERSTEIN
United States District Judge